

116TH CONGRESS
1ST SESSION

S. 1092

To impose sanctions with respect to the theft of United States intellectual property by Chinese persons, and for other purposes.

IN THE SENATE OF THE UNITED STATES

APRIL 9, 2019

Mr. CRUZ introduced the following bill; which was read twice and referred to the Committee on Foreign Relations

A BILL

To impose sanctions with respect to the theft of United States intellectual property by Chinese persons, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Sanction Entities in
5 China for Undermining Rules, Exploiting Intellectual
6 Property Act of 2019” or the “SECURE IP Act of 2019”.

1 **SEC. 2. IMPOSITION OF SANCTIONS WITH RESPECT TO CHI-**
2 **NESE PERSONS THAT ARE INVOLVED IN THE**
3 **THEFT OF UNITED STATES INTELLECTUAL**
4 **PROPERTY.**

5 (a) IDENTIFICATION REQUIRED.—

6 (1) IN GENERAL.—Not later than 90 days after
7 the date of the enactment of this Act, and every 180
8 days thereafter, the President shall—

9 (A) identify Chinese persons that the
10 President determines to, on or after such date
11 of enactment—

12 (i) be responsible for or complicit in,
13 or to have engaged in, the misappropria-
14 tion, receipt, or use of intellectual property
15 stolen from United States persons if that
16 misappropriation, receipt, or use is reason-
17 ably likely to result in, or has materially
18 contributed to, a significant threat to the
19 national security, foreign policy, or econ-
20 omy of the United States;

21 (ii) have materially assisted, spon-
22 sored, or provided financial, material, or
23 technological support for, or goods or serv-
24 ices to or in support of—

25 (I) any activity described in
26 clause (i); or

1 (II) any person the property and
2 interests in property of which are
3 blocked pursuant to subsection (b)(1);
4 (iii) be owned or controlled by, or to
5 have acted or purported to act for or on
6 behalf of, directly or indirectly, any person
7 the property and interests in property of
8 which are blocked pursuant to subsection
9 (b)(1);

10 (iv) have attempted to engage in any
11 of the activity described in clause (i), (ii),
12 or (iii); or

13 (v) be a corporate officer of, or a prin-
14 cipal shareholder with controlling interests
15 in, an entity described in any of clauses (i)
16 through (iv); and

17 (B) submit to the appropriate congres-
18 sional committees a list of such persons.

19 (2) FORM.—The list required by paragraph
20 (1)(B) shall be submitted to the appropriate con-
21 gressional committees in unclassified form and pub-
22 lished in the Federal Register.

23 (3) PUBLIC INPUT.—

1 (A) IN GENERAL.—In identifying persons
2 under paragraph (1)(A), the President shall so-
3 licit and consider public input, as appropriate.

4 (B) PROCESS.—Not later than 30 days
5 after the date of the enactment of this Act, the
6 President shall—

7 (i) establish a process for soliciting
8 and considering public input under sub-
9 paragraph (A) in a manner that protects
10 the confidentiality of persons providing
11 that input;

12 (ii) publish guidelines for providing
13 input pursuant to that process on a pub-
14 licly available internet website in an easily
15 searchable format; and

16 (iii) submit to the appropriate con-
17 gressional committees a report on that
18 process.

19 (b) IMPOSITION OF SANCTIONS.—The President shall
20 impose the following sanctions with respect to each person
21 on the list required by subsection (a)(1)(B):

22 (1) BLOCKING OF PROPERTY.—The President
23 shall block and prohibit, in accordance with the
24 International Emergency Economic Powers Act (50
25 U.S.C. 1701 et seq.), all transactions in all property

1 and interests in property of the person if such prop-
2 erty and interests in property are in the United
3 States, come within the United States, or are or
4 come within the possession or control of a United
5 States person.

6 (2) EXCLUSION FROM UNITED STATES.—In the
7 case of an alien, the Secretary of State shall deny
8 a visa to, and the Secretary of Homeland Security
9 shall exclude from the United States, the alien.

10 (c) EXCEPTIONS.—

11 (1) INTELLIGENCE ACTIVITIES.—This section
12 shall not apply with respect to activities subject to
13 the reporting requirements under title V of the Na-
14 tional Security Act of 1947 (50 U.S.C. 3091 et seq.)
15 or any authorized intelligence activities of the United
16 States.

17 (2) COMPLIANCE WITH UNITED NATIONS HEAD-
18 QUARTERS AGREEMENT.—Subsection (b)(2) shall
19 not apply with respect to the admission of an alien
20 to the United States if such admission is necessary
21 to comply with United States obligations under the
22 Agreement between the United Nations and the
23 United States of America regarding the Head-
24 quarters of the United Nations, signed at Lake Suc-
25 cess June 26, 1947, and entered into force Novem-

1 ber 21, 1947, under the Convention on Consular Re-
2 lations, done at Vienna April 24, 1963, and entered
3 into force March 19, 1967, or under other inter-
4 national agreements.

5 (d) IMPLEMENTATION; PENALTIES.—

6 (1) IMPLEMENTATION.—The President may ex-
7 ercise all authorities provided under sections 203
8 and 205 of the International Emergency Economic
9 Powers Act (50 U.S.C. 1702 and 1704) to carry out
10 this section.

11 (2) PENALTIES.—A person that violates, at-
12 tempts to violate, conspires to violate, or causes a
13 violation of subsection (b)(1) or any regulation, li-
14 cense, or order issued to carry out that subsection
15 shall be subject to the penalties set forth in sub-
16 sections (b) and (c) of section 206 of the Inter-
17 national Emergency Economic Powers Act (50
18 U.S.C. 1705) to the same extent as a person that
19 commits an unlawful act described in subsection (a)
20 of that section.

21 (e) TERMINATION OF SANCTIONS.—The President
22 may remove a Chinese person from the list required by
23 subsection (a)(1)(B), and terminate the application of
24 sanctions under subsection (b) with respect to the person,

1 if the President determines and reports to the appropriate
2 congressional committees that the person—

3 (1) has not, during the 2-year period preceding
4 the date of the determination, engaged in any activ-
5 ity described in subsection (a)(1)(A); and

6 (2) has provided assurances that the person will
7 not engage in any such activity in the future.

8 (f) REPORT REQUIRED.—

9 (1) IN GENERAL.—With the third consecutive
10 list required by subsection (a)(1)(B) that includes a
11 Chinese person, the President shall submit to the
12 appropriate congressional committees a report that
13 includes a description of—

14 (A) the activity described in subsection
15 (a)(1)(A) in which the person engaged;

16 (B) how the intellectual property involved
17 in the activity was misappropriated or used;

18 (C) how the use of that intellectual prop-
19 erty affected the United States person from
20 which the intellectual property was stolen; and

21 (D) the significant threat to the national
22 security, foreign policy, or economy of the
23 United States the misappropriation, receipt, or
24 use of the intellectual property is reasonably

1 likely to result in or has materially contributed
2 to.

3 (2) FORM OF REPORT.—The report required by
4 paragraph (1) shall be submitted in unclassified
5 form but may include a classified annex.

6 (g) DEFINITIONS.—In this section:

7 (1) ADMISSION; ALIEN.—The terms “admis-
8 sion” and “alien” have the meanings given those
9 terms in section 101 of the Immigration and Nation-
10 ality Act (8 U.S.C. 1101).

11 (2) APPROPRIATE CONGRESSIONAL COMMIT-
12 TEES.—The term “appropriate congressional com-
13 mittees” means—

14 (A) the Committee on Banking, Housing,
15 and Urban Affairs, the Committee on Foreign
16 Relations, and the Committee on Finance of the
17 Senate; and

18 (B) the Committee on Foreign Affairs, the
19 Committee on Financial Services, and the Com-
20 mittee on Ways and Means of the House of
21 Representatives.

22 (3) CHINESE PERSON.—The term “Chinese
23 person” means—

24 (A) an individual who is a citizen or na-
25 tional of the People’s Republic of China; or

1 (B) an entity organized under the laws of
2 the People's Republic of China or otherwise
3 subject to the jurisdiction of the Government of
4 the People's Republic of China.

5 (4) INTELLECTUAL PROPERTY.—The term “in-
6 tellectual property” means—

7 (A) any work protected by a copyright
8 under title 17, United States Code;

9 (B) any property protected by a patent
10 granted by the United States Patent and
11 Trademark Office under title 35, United States
12 Code;

13 (C) any word, name, symbol, or device, or
14 any combination thereof, that is registered as a
15 trademark with the United States Patent and
16 Trademark Office under the Act entitled “An
17 Act to provide for the registration and protec-
18 tion of trademarks used in commerce, to carry
19 out the provisions of certain international con-
20 ventions, and for other purposes”, approved
21 July 5, 1946 (commonly known as the
22 “Lanham Act” or the “Trademark Act of
23 1946”) (15 U.S.C. 1051 et seq.);

24 (D) a trade secret (as defined in section
25 1839 of title 18, United States Code); or

1 (E) any other form of intellectual property.

2 (5) UNITED STATES PERSON.—The term

3 “United States person” means—

4 (A) a United States citizen or an alien law-
5 fully admitted for permanent residence to the
6 United States; or

7 (B) an entity organized under the laws of
8 the United States or of any jurisdiction within
9 the United States, including a foreign branch of
10 such an entity.

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